

## **IDAPA 02 - IDAHO DEPARTMENT OF AGRICULTURE**

### **02.06.09 - INVASIVE SPECIES RULES**

#### **DOCKET NO. 02-0609-0801 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 22-1907, 22-2006 and 22-2015, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

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**TUESDAY - OCTOBER 14, 2008 - 6:00 pm to 8:00 pm**

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**SANDPOINT COMMUNITY CENTER  
204 S. First Avenue  
Sandpoint, ID**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule determines which species are invasive in Idaho and establishes procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2008 Idaho Administrative Bulletin, Volume 08-07, page 19.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Amy Ferriter, Invasive Species Coordinator (208) 332-8686 or Thomas E. Dayley, Administrator (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2008.

DATED this 25th day of August, 2008.

Brian J. Oakey  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
Phone 332-8500, Fax 334-2170

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0609-0801**

**IDAPA 02**  
**TITLE 06**  
**CHAPTER 09**

**02.06.09 - INVASIVE SPECIES RULES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 19, Idaho Code, the “Idaho Invasive Species Act of 2008” and Title 22, Chapter 20, Idaho Code, the “Idaho Plant Pest Act of 2002.” ( )

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.06.09, “Invasive Species Rules.” ( )

**02. Scope.** These rules govern the designation of invasive species, and establish procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping of regulated species. The official citation of this chapter is IDAPA 02.06.09, et seq. For example, the citation for this section is IDAPA 02.06.09.001. ( )

**002. WRITTEN INTERPRETATIONS.**

As described in Section 67-5201(19) (b) (iv), Idaho Code, the Idaho State Department of Agriculture may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. ( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. However, other species of plants or animals harmful to Idaho agriculture or the environment, and not listed herein as an invasive species, may be regulated by other administrative rules. Please contact the Department for additional information. ( )

**005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. ( )

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. ( )

**04. Telephone Number.** The telephone number for the Division of Plant Industries at the central office is (208) 332-8620. ( )

**05. Fax Number.** The fax number for the Division of Plant Industries at the central office is (208) 334-2283. ( )

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Department and the State Law Library.

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**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

The Department adopts the definitions set forth in Section 22-1904, Idaho Code. In addition, the following definitions shall apply in the interpretation and enforcement of this rule.

( )

**01. Control.** The abatement, suppression, containment or eradication of an invasive species. ( )

**02. Department.** The Idaho State Department of Agriculture. ( )

**03. Director.** The director of the Idaho State Department of Agriculture or the director's designee. ( )

**04. Decontaminate.** To decontaminate means to control an invasive species on a conveyance or equipment in accordance with rule or accepted practices and/or label requirements. ( )

**05. Environmental Harm.** To cause significant adverse effects on uses of natural resources or on plants or animals. ( )

**06. Equipment.** An article, tool, implement, or device capable of carrying or containing an invasive species. ( )

**07. Infested.** A plant, animal, geographic region, water body, facility or water supply system that: ( )

**a.** Has been determined by the Department to contain an invasive species; ( )

**b.** Has been so exposed to an invasive species and that invasive species can reasonably be expected to persist. ( )

**08. Invasive Species Act.** The Idaho Invasive Species Act of 2008. ( )

**09. Plant Pest Act.** The Idaho Plant Pest Act of 2002. ( )

**10. State.** The State of Idaho. ( )

**11. Water Body.** Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain. Tanks open to the air are included in this definition of water body. Tanks that are sealed, e.g. chemigation equipment and drinking water system storage tanks, are not water bodies for the purpose of this rule. ( )

**12. Water Supply System.** A system used to treat, convey or distribute water for irrigation, industrial, waste water treatment or culinary use. A water supply system includes a pump, canal, ditch, or pipeline, but does not include a water body as defined in Section 010.11. ( )

**011. ABBREVIATIONS.**

**01. IDFG.** Idaho Department of Fish & Game. ( )

**012. -- 099. (RESERVED).**

**100. PROHIBITION ON POSSESSION, IMPORTATION, SHIPPING, AND TRANSPORTATION.**

**01. Prohibited Acts.** No person shall undertake or commit any of the prohibited acts listed below following the effective date of this rule, unless the act falls within one (1) of the exceptions set forth in Section 100.02. Prohibited acts include but are not limited to: ( )

- a.** Possession, propagation, importation, export, shipping, and transportation of an invasive species; ( )
- b.** Release, placement, planting, or causing to be released, placed, or planted an invasive species in a water body, facility, water supply system, field, garden, planted area, ecosystem, or otherwise into the environment; ( )
- c.** Transportation of a conveyance or equipment that has been in an infested water within the previous thirty (30) days without decontaminating the conveyance or equipment; or ( )
- d.** Transportation, importation or shipping of any plant, animal, mode of transportation, conveyance, or any thing or object that is infested with an invasive species without decontaminating the object. ( )

**02. Exceptions.** The Director may authorize, by permit, the possession, importation, shipping, and/or transportation of an invasive species into or through the state of Idaho only if: ( )

- a.** The invasive species is being transported to the Department or IDFG, or such other destination as the Director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species; or ( )
- b.** The species is being transported for disposal as part of a control activity, in accordance with a permit issued pursuant to Section 22-1906, Idaho Code; or ( )
- c.** The invasive species specimen has been lawfully acquired and is dead, and in the case of plant species, all seed has been removed and the plant rendered otherwise nonviable; or ( )
- d.** The invasive species is in the form of herbaria or has otherwise been preserved, and rendered nonviable. ( )

**110. PERMITS.**

**01. Research Permit.** The Director may issue a research permit to any division of federal, state or local government, a college or university, or other research facility, upon receipt of an application on forms provided by the Department. In order to obtain a research permit, the person seeking that permit shall prove, to the Director's satisfaction, that: ( )

- a.** Any person capturing, harvesting or otherwise acquiring an invasive species under the permit shall utilize capturing, harvesting or acquisition practices that will ensure that the invasive species is not spread or disseminated as a result of the capture, harvest or acquisition; ( )
- b.** Any person who comes into contact with an invasive species will decontaminate any equipment as soon as possible after leaving infested waters or the area in which the invasive species was found; and ( )
- c.** Any invasive species will be rendered nonviable prior to disposal. ( )

**02. Cooperative Agreements.** Nothing contained in Section 110 shall prevent the Director from entering into memoranda of agreement, cooperative agreements or other agreements with other governmental entities to address the possession, transportation, shipping, decontamination or capture of an invasive species. ( )

**111. -- 119. (RESERVED).**

**120. DECLARATION OF EXISTING INVASIVE SPECIES.**

**01. Declaration.** Any person possessing an invasive species listed herein prior to the effective date of this rule shall declare those species to the director, in writing, on a form provided by the Division of Plant Industries prior to one hundred and twenty (120) days after the effective date of these Rules. The declaration form shall be completed accurately, legibly, and completely. ( )

**02. No Propagation.** No person who possesses an invasive species prior to the effective date of this rule shall undertake or allow propagation or spread of that species. ( )

**121. -- 299. (RESERVED).**

**300. REPORTING REQUIREMENTS.**

**01. Reporting Invasive Species.** Any person who discovers an invasive species within the State or who has reason to believe that an invasive species may exist at a specific location shall immediately report the discovery to the Department. ( )

**02. Report Information.** The report shall, to the best of the reporter's ability, contain the following information: ( )

**a.** Location of the invasive species; ( )

**b.** Date of discovery; and ( )

**c.** Identification of any conveyance, equipment, water body, or host in or upon which the invasive species may be found. ( )

**03. Reporting Method.** The report shall be made in person or in writing (which shall include electronic mail) at any Department office or headquarters. ( )

**301. -- 399. (RESERVED).**

**400. INVASIVE SPECIES -- INVERTEBRATES (NOT INCLUDING SNAILS AND SLUGS).**

**01. Dreissena Mussels, *Dreissena* spp.** ( )

**02. New Zealand Mud Snail, *Potamopyrgus antipodarum*.** ( )

**03. Red Claw Crayfish, *Cherax quadricarinatus*.** ( )

**04. Yabby Crayfish, *Cherax albidus*/C. *destructor*.** ( )

**05. Marone Crayfish, *Cherax tenuimanus*.** ( )

**06. Rusty Crayfish, *Orconectes rusticus*.** ( )

**07. Asian Clam, *Corbicula fluminea*.** ( )

**401. INVASIVE SPECIES -- FISH.**

**01. Green Sturgeon, *Acipenser medirostris*.** ( )

**02. Walking Catfish, *Clariidae batrachus*.** ( )

**03. Bowfin, *Ania calva*.** ( )

**04. Gar, *Lepiostidae*.** ( )

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| 05.  | Piranhas, <i>Serrasalmus spp.</i> , <i>Rosseveltiella spp.</i> , <i>Pygocentrus spp.</i> | ( ) |
| 06.  | Rudd, <i>Scardinius erythrophthalmus</i> .   | ( ) |
| 07.  | Ide, <i>Leuciscus idus</i> .   | ( ) |
| 08.  | Diploid Grass Carp, <i>Ctenopharyngodon idella</i> .                                     | ( ) |
| 09.  | Bighead Carp, <i>Hypophthalmichthys nobilis</i> .  | ( ) |
| 10.  | Silver Carp, <i>Hypophthalmichthys molitrix</i> .  | ( ) |
| 11.  | Black Carp, <i>Mylopharyngodon piceus</i> .  | ( ) |
| 12.  | Snakeheads, <i>Channa spp.</i> , <i>Parachanna spp.</i>                                  | ( ) |
| 13.  | Round Goby, <i>Neogobius melanostomas</i> .  | ( ) |
| 14.  | Ruffe, <i>Gymnocephalus cernuus</i> .  | ( ) |
| 402. | <b>INVASIVE SPECIES -- AMPHIBIANS.</b>   |     |
| 01.  | Rough-Skinned Newt, <i>Taricha granulose</i> .   | ( ) |
| 02.  | Bullfrog, <i>Lithobates catesbeianus</i> .   | ( ) |
| 403. | <b>INVASIVE SPECIES -- REPTILES.</b>   |     |
| 01.  | Red-Eared Slider, <i>Trachemys scripta elegans</i> .                                     | ( ) |
| 02.  | Mediterranean Gecko, <i>Hemidactylus turcicus</i> .                                      | ( ) |
| 03.  | Common Wall Lizard, <i>Podarcis muralis</i> .  | ( ) |
| 04.  | Italian Wall Lizard, <i>Podarcis sicula</i> .  | ( ) |
| 05.  | Brahminy Blindsnake, <i>Ramphotyphlops braminus</i> .                                    | ( ) |
| 404. | <b>INVASIVE SPECIES -- BIRDS.</b>  |     |
| 01.  | Monk Parakeet, <i>Myiopsitta monachus</i> .  | ( ) |
| 405. | <b>INVASIVE SPECIES -- MAMMALS.</b>  |     |
| 01.  | Nutria, <i>Myocastor coypus</i> .  | ( ) |
| 406. | <b>INVASIVE SPECIES -- INSECTS.</b>  |     |
| 01.  | Asian Longhorned Beetle, <i>Anoplophora glabripennis</i> .                               | ( ) |
| 02.  | Citrus Longhorned Beetle, <i>Anoplophora chinensis</i> .                                 | ( ) |
| 03.  | Emerald Ash Borer, <i>Agrilus planipennis</i> .  | ( ) |
| 04.  | Marmorated Stink Bug, <i>Halyomorpha halys</i> .   | ( ) |
| 05.  | European Woodwasp, <i>Sirex noctilio</i> .   | ( ) |

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| 06. | European Gypsy Moth, <i>Lymantria dispar</i> .             | ( ) |
| 07. | Asian Gypsy Moth, <i>Lymantria dispar</i> .                | ( ) |
| 08. | Soybean Aphid, <i>Aphis glycines</i> .                     | ( ) |
| 09. | Potato Tuber Moth, <i>Tecia solanivora</i> .               | ( ) |
| 10. | Japanese Beetle, <i>Popilla japonica</i> .                 | ( ) |
| 11. | Mexican Bean Beetle, <i>Epilachna varivestis</i> .         | ( ) |
| 12. | Kaphra Beetle, <i>Trogoderma granarium</i> .               | ( ) |
| 13. | Red Imported Fire Ant, <i>Solenopsis invicta</i> .         | ( ) |
| 14. | Glassy-Winged Sharpshooter, <i>Homalodisca coagulate</i> . | ( ) |
| 15. | Grape Phylloxera, <i>Daktulosphaira vitifoliae</i> .       | ( ) |
| 16. | Vine Mealybug, <i>Planococcus ficus</i> .                  | ( ) |
| 17. | Summer Fruit Tortix, <i>Adoxophyes orana</i> .             | ( ) |
| 18. | Silver Y Moth, <i>Autoographa gamma</i> .                  | ( ) |
| 19. | False Codling Moth, <i>Cyrtophlebia leucotreta</i> .       | ( ) |
| 20. | Light Brown Apple Moth, <i>Epiphyas postvittana</i> .      | ( ) |
| 21. | Apple Tortrix, <i>Archips fuscocupreanus</i> .             | ( ) |
| 22. | Pine Shoot Beetle, <i>Tomicus piniperda</i> .              | ( ) |
| 23. | Cherry Bark Tortrix, <i>Enarmonia formosana</i> .          | ( ) |
| 24. | Apple Ermine Moth, <i>Ypomoneuta malinellus</i> .          | ( ) |
| 25. | Cherry Ermine Moth, <i>Enarmonia formosana</i> .           | ( ) |
| 26. | European Grape Vine Moth, <i>Lobesia botrana</i> .         | ( ) |
| 27. | European Grape Berry Moth, <i>Eupoecilia ambiguella</i> .  | ( ) |
| 28. | Plum Fruit Moth, <i>Cydia funebrana</i> .                  | ( ) |
| 29. | Plum Curculio, <i>Conotrachelus nenuphar</i> .             | ( ) |
| 30. | Leek Moth, <i>Acrolepiopsis assectella</i> .               | ( ) |
| 31. | Bee Mite, <i>Tropilaelaps cleareae</i> .                   | ( ) |
| 32. | Small Hive Beetle, <i>Aethina tumida</i> .                 | ( ) |
| 33. | Africanized Honey Bee, <i>Apis mellifera</i> .             | ( ) |

- 34. Black Currant Gall Mite, *Cecidophyopsis ribis*. ( )
- 35. Exotic Bark Beetles, (Scolytidae). ( )
  - a. *Scolytus mali*. ( )
  - b. *Xylosandrus crassiusculus*. ( )
  - c. *Xylosandrus germanus*. ( )
  - d. *Xyleborus californicus*. ( )
- 36. Sunni Bug, *Eurygaster intergriceps*. ( )
- 37. German Yellowjacket, *Vespula germanica*. ( )
- 38. European Paper Wasp, *Polistes dominulus*. ( )
- 39. European Elm Bark Beetle, *Scolytus multistriatus*. ( )
- 40. Banded Elm Bark Beetle, *Scolytus schevyrewi*. ( )
- 41. Wheat Blossom Midge, *Sitodiplosis mosellana*. ( )
- 42. Potato Tuberworm, *Phthorimeaea operculella*. ( )
- 407. INVASIVE SPECIES -- PATHOGENS, DISEASES AND PARASITIC NEMATODES.
  - 01. Whirling Disease, *Myxobolus cerebralis*. ( )
  - 02. VHS, *Viral hemorrhagic septicemia*. ( )
  - 03. Sudden Oak Death (Ramorum Blight), *Phytophthora ramorum*. ( )
  - 04. Karnal Bunt, *Tilletia indica*. ( )
  - 05. Bean Common Mosaic Virus, (strain US-6). ( )
  - 06. Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5). ( )
  - 07. Potato Wart, *Synchytrium endobioticum*. ( )
  - 08. Golden Nematode, *Globodera rostochiensis*. ( )
  - 09. Soybean Cyst Nematode, *Heterodera glycines*. ( )
  - 10. Bacterial Wilt of Alfalfa, *Clavibacter michiganensis* spp *insidiosus*. ( )
  - 11. Wheat Seed Gall Nematode, *Anguina tritici*. ( )
  - 12. Pine Wilt Nematode, *Bursaphelenchus xylophilus*. ( )
  - 13. Brown Rot of Potatoes, *Ralstonia solanacearum*, race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium). ( )
  - 14. Java Downy Mildew of Corn, *Peronosclerospora maydis*. ( )



15. Philippine Downy Mildew of Corn, *Peronosclerospora philipensis*. ( )
16. Asian Soybean Rust, *Phakopsora pachyrhizi*. ( )
17. Plum Pox Potyvirus. ( )
18. Cherry Leaf Roll Virus. ( )
19. Stewart's Wilt of Corn, *Pantoea stewartii*. ( )
20. Brown Stripe Downy Mildew of Corn, *Sclerophthora rayssiae* var. *zeae*. ( )
21. Potato Spindle Tuber Viroid. ( )
22. Pierce's Disease of Grapes, *Xylella fastidiosa*. ( )
23. Black Currant Reversion Disease. ( )
24. Powdery Mildew of Hops, *Sphaerotheca macularis* (s. *humuli*). ( )
25. Bacterial Brown Spot of Beans, *Pseudomonas syringae* pv *syringae*. ( )
26. Wheat Smut, *Tilletia tritici*. ( )
27. Wheat Scab, *Fusarium graminearum*. ( )
28. Potato Ring Rot, *Corynebacterium sepedonicum*. ( )
29. Potato Late Blight, *Phytophthora infestans*. ( )
30. Onion White Rot, *Sclerotium cepivorum*. ( )
31. Sugar Beet Rhizomania (beet necrotic yellow vein virus (BNYVV) and transmitted by the soil fungus *Polymyxa betae*). ( )
32. White Pine Blister Rust, *Cronartium ribicola*. ( )
33. Cereal Cyst Nematode, *Heterodera avenae*. ( )
34. Columbia Root Knot Nematode, *Meloidogyne chitwoodi*. ( )
35. Onion Stem And Bulb Nematode, *Ditylenchus dipsaci* (onion race). ( )
36. Iris Yellow Spot Virus – IYSV of onions. ( )
37. Potato Mop Top Virus, PMTV. ( )
408. INVASIVE SPECIES -- INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS).
01. Green or Burrowing Snail, *Cantareus apertus*. ( )
02. Pulmonate Snail, *Helix pomatia*. ( )
03. White Garden Snail, *Theba pisana*. ( )
04. Giant African Snail, *Achatina fulica*. ( )

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| 05. | Lactea Snail, <i>Otala lacteal</i> .                | ( ) |
| 06. | Maritime Garden Snail, <i>Cernuella virgata</i> .   | ( ) |
| 07. | Brown Garden Snail, <i>Cryptomphalus aspersa</i> .  | ( ) |
| 08. | Wrinkled Snail, <i>Candidula intersecta</i> .       | ( ) |
| 09. | Chinese Mystery Snail, <i>Bellamya chinensis</i> .  | ( ) |
| 10. | Japanese Mystery Snail, <i>Bellamya japonica</i> .  | ( ) |
| 11. | Apple Snail, <i>Pomacea spp.</i>                    | ( ) |
| 12. | Marisa, <i>Marisa cornuarietis</i> .                | ( ) |
| 13. | Red-Lipped Melania, <i>Melanoides tuberculata</i> . | ( ) |
| 14. | Quilted Melania, <i>Tarebia granifera</i> .         | ( ) |
| 15. | Decollate Snail, <i>Rumina decollata</i> .          | ( ) |
- 409. -- 499. (RESERVED).**
- 500. ADDITION OF SPECIES.**  
The Director may add or remove species to the invasive species list in this chapter by issuing a written order listing the invasive species and the reasons for adding them to or removing them from the invasive species list. ( )
- 501. -- 599. (RESERVED).**
- 600. PENALTIES FOR VIOLATION.**  
Any person who violates the provisions of this chapter shall be subject to the penalty provisions of Section 22-1913 and/or Section 22-2020, Idaho Code. ( )
- 601. -- 698. (RESERVED).**
- 699. MINOR VIOLATIONS.**  
Nothing in this chapter shall be construed as requiring the Department to report minor violations when the Department believes that the public interest will be best served by suitable warnings or other administrative action. ( )
- 700. -- 999. (RESERVED).**